

*ultimate consignee or end user.* No person may issue a bill of lading or air waybill that provides for delivery of licensed items to any foreign port located outside the country of an intermediate consignee, ultimate consignee, or end user named on the BIS license and in the EEI filing.

(2) *Optional ports of unloading*—(i) *Licensed items.* No person may issue a bill of lading or air waybill that provides for delivery of licensed items to optional ports of unloading unless all the optional ports are within the country of ultimate destination or are included on the BIS license and in the EEI filing.

(ii) *Unlicensed items.* For shipments of items that do not require a license, the exporter may designate optional ports of unloading in EEI filing and on other export control documents, so long as the optional ports are in countries to which the items could also have been exported without a license.

(d) *Delivery of items.* No person may deliver items to any country other than the country of an intermediate consignee, ultimate consignee, or end user named on the BIS license and EEI filing without prior written authorization from BIS, except for reasons beyond the control of the carrier (such as acts of God, perils of the sea, damage to the carrier, strikes, war, political disturbances or insurrection).

(e) *Procedures for unscheduled unloading*—(1) *Unloading in country where no license is required.* When items are unloaded in a country to which the items could be exported without a license issued by BIS, no notification to BIS is required. However, any persons disposing of the items must continue to comply with the terms and conditions of any License Exception, and with any other relevant provisions of the EAR.

(2) *Unloading in a country where a license is required.* (i) When items are unloaded in a country to which the items would require a BIS license, no person may effect delivery or entry of the items into the commerce of the country where unloaded without prior written approval from BIS. The carrier, in ensuring that the items do not enter the commerce of the country, may have to place the items in custody, or under bond or other guaranty. In addition,

the carrier must inform the exporter and BIS of the unscheduled unloading in a time frame that will enable the exporter to submit its report within 10 days from the date of unscheduled unloading. The exporter must within 10 days of the unscheduled unloading report the facts to and request authorization for disposition from BIS using either: mail, fax, or E-mail. The report to BIS must include:

(A) A copy of the manifest of the diverted cargo;

(B) Identification of the place of unloading;

(C) Statement that explains why the unloading was necessary; and

(D) A proposal for disposition of the items and a request for authorization for such disposition from BIS.

(ii) *Contact information.* U.S. Department of Commerce, Bureau of Industry and Security, Office of Exporter Services, Room 2099B, 14th and Pennsylvania Avenue, NW., Washington, DC 20230; phone number 202-482-0436; facsimile number 202-482-3322; and E-Mail address: [rp2d2@bis.doc.gov](mailto:rp2d2@bis.doc.gov).

[65 FR 42573, July 10, 2000, as amended at 72 FR 3946, Jan. 29, 2007; 78 FR 13470, Feb. 28, 2013; 78 FR 22726, Apr. 16, 2013; 79 FR 4619, Jan. 29, 2014]

#### **§ 758.6 Destination control statement and other information furnished to consignees.**

(a) *General requirement.* The Destination Control Statement (DCS) must be entered on the invoice and on the bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user abroad. The person responsible for preparation of those documents is responsible for entry of the DCS. The DCS is required for all exports from the United States of items on the Commerce Control List that are not classified as EAR99, unless the export may be made under License Exception BAG or GFT (see part 740 of the EAR). At a minimum, the DCS must state: “These commodities, technology, or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is

prohibited.” Compliance with the requirements described in § 123.9(b) of the ITAR constitutes compliance with the requirements of this paragraph (a) for shipments containing both items subject to the EAR and defense articles subject to the ITAR.

(b) *Additional requirement for 9x515 and “600 series” items.* In addition to the destination control statement required in paragraph (a), the ECCN for each 9x515 or “600 series” item being exported must be printed on the invoice and on the bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end user abroad.

(c) *Additional requirement for items under ECCNs for which CC Column 1 or 3 or RS Column 2 are listed as reasons for control and are destined to India.* In addition to the DCS as required in paragraph (a) of this section, the following information must be printed on the invoice, bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end-user in India:

“These items are classified under Export Control Classification Number(s) (ECCN(s)) [Fill-in the ECCNs for which CC 1 or 3 or RS 2 are listed as reasons for control] and destined to India. Authorization for reexport from India may be required from the U.S. Department of Commerce.”

[78 FR 22726, Apr. 16, 2013, as amended at 79 FR 27437, May 13, 2014; 79 FR 67058, Nov. 12, 2014; 80 FR 3466, Jan. 23, 2015]

**§ 758.7 Authority of the Office of Export Enforcement, the Bureau of Industry and Security, Customs offices and Postmasters in clearing shipments.**

(a) *Actions to assure compliance with the EAR.* Officials of BIS, the Office of Export Enforcement, the U.S. Customs Service and postmasters, including post office officials, are authorized and directed to take appropriate action to assure compliance with the EAR. This includes assuring that:

(1) Exports without a license issued by BIS are either outside the scope of the license requirements of the Export Administration Regulations or authorized by a License Exception; and

(2) Exports purporting to be authorized by licenses issued by BIS are, in fact, so authorized and the transaction complies with the terms of the license.

(b) *Types of actions.* The officials designated in paragraph (a) of this section are authorized to take the following types of actions:

(1) *Inspection of items*—(i) *Purpose of inspection.* All items declared for export are subject to inspection for the purpose of verifying the items specified in the Electronic Export Information (EEI) filing, or if there is no EEI filing, the bill of lading or other loading document covering the items about to be exported, and the value and quantity thereof, and to assure observance of the other provisions of the Export Administration Regulations. This authority applies to all exports within the scope of the Export Administration Act or Export Administration Regulations whether or not such exports require a license issued by BIS. The inspection may include, but is not limited to, item identification, technical appraisal (analysis), or both.

(ii) *Place of inspection.* Inspection shall be made at the place of lading or where officials authorized to make those inspections are stationed for that purpose.

(iii) *Technical identification.* Where, in the judgment of the official making the inspection, the item cannot be properly identified, a sample may be taken for more detailed examination or for laboratory analysis.

(A) *Obtaining samples.* The sample will be obtained by the official making the inspection in accordance with the provisions for sampling imported merchandise. The size of the sample will be the minimum representative amount necessary for identification or analysis. This will depend on such factors as the physical condition of the material (whether solid, liquid, or gas) and the size and shape of the container.

(B) *Notification to exporter and consignee.* When a sample is taken, the exporter (or the exporter’s agent) and the ultimate consignee will be notified by letter from one of the official designated in paragraph (a) of this section, showing the port of export, date of sampling, export license number (if any) or other authorization, invoice